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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,018	09/01/2001	Craig M. Janik	005532.P007	1644

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EXAMINER

GRIER, LAURA A

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/945,018	JANIK, CRAIG M.	
	Examiner	Art Unit	
	Laura A Grier	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-6,11-14,34 and 36-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,4-6,11-14 and 61-67 is/are allowed.
- 6) ☒ Claim(s) 34,36-38,40-51,53-60,68 and 70 is/are rejected.
- 7) ☒ Claim(s) 39,52 and 69 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2004/07/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 41-44, 46, 48, 50, 53-60, 68** are rejected under 35 U.S.C. 102(e) as being anticipated by Janky et al. (herein, Janky), U. S. Patent No. 6549942.

Regarding **claims 41 and 68**, Janky discloses an enhanced delivery of audio data for portable playback (figures 1-4). Janky's disclosure comprises an internetwork server (11) for providing digital audio data via a LAN to a PC(computer) or SPU, which reads on a media playback device, and a local area network, therein as claimed; wherein, the local area network port is inherently support by evident of the LAN network to a PC – col. 2, lines 1-32, col. 3, lines 28-67; the coupling of the modem via the a buffer interface, and a microprocessor to other forms of memory (col. 5, lines 3-5, and 35-60, col. 6, lines 12-54), reads on a volatile memory buffer, and a microprocessor, and the use of particular types of software that may used by the PC to control the transfer of the digital media data, therein, (col. 2, lines 52-63, col. 5, lines 18-33, col. 6, lines 29-41, col. 8, lines 27-35), which reads on firmware.

Regarding **claims 42 and 44**, respectively, Janky discloses everything claimed as applied above (see claim 41). Janky further discloses via the use of the SPU (col. 6, lines 22-41) a

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remote controller or portable electronic device to send instructions to cause the converter device, which may be constituted by the PC as well as the SPU) to stream the processed data to media playback device.

Regarding **claim 43**, Janky discloses everything claimed as applied above (see claim 41). Janky further discloses the digital may be compressed or uncompressed digital signals, (col. 6, lines 22-24) and a D/A converter for converting the data to analog data/signals (col. 2, lines 1-3).

Regarding **claim 46**, Janky discloses everything claimed as applied above (see claim 41). Janky further inherently discloses wireless transfer protocol transfer as evident of a wireless transfer for of the audio data, (col. 4, lines 48-63).

Regarding **claim 48**, Janky discloses everything claimed as applied above (see claim 41). Janky further discloses the SPU which reads on a portable electronic device, wherein the SPU is coupled with a wireless LAN modem which provides inherent support of LAN network adapter (col. 4, lines 48-63 and col. 2, lines 1-8).

Regarding **claims 50 and 54**, Janky discloses an enhanced delivery of audio data for portable playback (figures 1-4). Janky's disclosure comprises an internetwork server (11) for providing digital audio data via a LAN to a PC (computer) or SPU, which reads on local area network, therein as claimed; wherein, the local area network port is inherently support by evident of the LAN network to a PC, and an user interface and display is provide to enable user interaction or interfacing – col. 2, lines 1-32, col. 3, lines 28-67, col. 6, lines 37-41; and the use of particular types of software that may used by the PC to control the transfer of the digital media

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data, therein, (col. 2, lines 52-63, col. 5, lines 18-33, col. 6, lines 29-41, col. 8, lines 27-35), which one or more non-volatile flash memories to store convert control on firmware.

Regarding **claims 53 and 55**, respectively, Janky discloses everything claimed as applied above (see claim 50, and 54). Janky further discloses the computer or SPU to indicate the converter device, thus with the coupling of the modem via the a buffer interface, and a microprocessor to other forms of memory (col. 5, lines 3-5, and 35-60, col. 6, lines 12-54), reads on a buffer memory.

Regarding **claims 56 and 57**, respectively, Janky discloses everything claimed as applied above (see claim 50 and 54). Janky further discloses the digital audio data is converted to an audio playback format, which reads on a media playback format.

Regarding **claim 58**, Janky discloses an enhanced delivery of audio data for portable playback (figures 1 and 2). Janky's disclosure comprises an internetwork server (11) for providing digital audio data via a LAN to a PC (computer) or SPU, which reads computer to convert digital media stream to a playback format and 1st and 2nd port, therein, as claimed; wherein, the ports are inherently support by evident of the LAN network to a PC or SPU – col. 2, lines 1-32, col. 3, lines 28-67, and col. 5, lines 18-33.

Regarding **claim 59**, Janky discloses everything claimed as applied above (see claim 58). Janky further discloses that playback audio as analog signals (col. 2, lines 1-3).

Regarding **claim 60**, Janky discloses everything claimed as applied above (see claim 58). Janky further discloses the digital may be compressed or uncompressed digital signals, (col. 6, lines 22-24).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 37, 45 and 49** are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky in view of Adair et al. (herein, Adair), U. S. Patent No. 6424369.

Regarding **claims 37, 45 and 49**, respectively, Janky discloses everything claimed as applied above (see claim 41 and 48, and 70). Janky fails to disclose the portable electronic device as a portable digital assistant (PDA).

Regarding the PDA, Adair discloses hand-held computers which comprises the use of PDA for receiving transmitted or transferred audio data/signal from a PC (computer), figures 4 and 5, and col. 6, lines 38-42 and col. 19, lines 10-12.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by providing a PDA, a small portable electronic device for receiving or downloading audio.

5. **Claim 47** is rejected under 35 U.S.C. 103(a) as being unpatentable over Janky.

Regarding **claim 47**, Janky discloses everything claimed as applied above (see claim 46). Janky discloses the use of various wireless transfer protocol. However, Janky fails to disclose IEEE 802.11b. The examiner takes official notices that IEEE 802.11b transmission protocol is a well known standard. Thus, it would have been obvious to one of the ordinary skill in the art at

the time the invention was made to modify the invention of Janky by providing the IEEE 802.11b protocol for the purpose of providing quality audio data transmission.

Regarding **claim 51**, Janky discloses everything claimed as applied above (see claim 50). Janky discloses a user interface (95), however, Janky fails to disclose a button integral to a housing of the converter device or a button attached hereto. It would have been obvious to one of the ordinary skill in the art at the time invention was made to modify the invention of Janky by provide a button for the purpose of activating the data commands.

Regarding **claim 70**, Janky discloses everything claimed as applied above (see claim 50). Janky fails to disclose the user interface allow a user to navigate through a hierarchical presentation of the data associated with the digital media file. Hierarchical manipulation of data is common practice. Thus it would have been obvious to one of the ordinary skill in the art at the time invention was made to modify the invention of Janky by provide hierarchical navigation of the audio for the purpose of manipulating the data on a priority basis.

Regarding **claim 34 and 36, respectively**, Janky discloses everything claimed as applied above (see claim 70). Janky discloses a user interface and display is provide to enable user interaction or interfacing – col. 6, lines 37-41.

Regarding **claim 38**, Janky discloses everything claimed as applied above (see claim 70). Janky discloses a display – col. 6, lines 37-41.

Regarding **claim 40**, Janky discloses everything claimed as applied above (see claim 70). Janky further discloses the SPU which reads on a portable electronic device, wherein the SPU is coupled with a wireless LAN modem which provides inherent support of LAN network adapter (col. 4, lines 48-63 and col. 2, lines 1-8).

6. **Claims 61-67, 2, 4-6, and 11-14** are allowed.
7. **Claims 39, 52 and 69** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims 2, 4-6, 11-14, 34, 36-70 have been considered but are moot in view of the new ground(s) of rejection.

The applicant basically provides argument that prior art reference, Janky, fails to disclose converting the digital file, and receiving the subsequent portion of the digital file simultaneously. An art rejection has not been provided for these claims. However, in regards to the applicant's argument Janky indicating that the audio of the SPU is played as at some time later, this true as taught by Janky. However, Janky also indicates that the downloaded or transferred audio data may be played back at the present time or at a later time. Therefore, Janky still teaches the limitations of independent claims 41, 54, and 68.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

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Any response to this action should be mailed to:


Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.


Laura A. Grier
September 7, 2004